

**Calendar No. 635**

110TH CONGRESS  
2D SESSION

**S. 86**

**[Report No. 110–283]**

To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

---

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 2007

Mr. MCCAIN (for himself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

APRIL 10, 2008

Reported by Mr. BINGAMAN, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

---

**A BILL**

To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fossil Creek Wild and  
3 Scenic River Act of 2007”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the restoration of stream flow to Fossil  
7 Creek resulting from the decommissioning of the  
8 Childs-Irving Hydroelectric Project by the Arizona  
9 Public Service Company is a demonstration of re-  
10 markable corporate stewardship resulting in the re-  
11 birth of a river;

12 (2) the spring-fed waters of Fossil Creek are  
13 exceptional for central Arizona and the travertine  
14 geological formations are rarely found anywhere in  
15 the United States;

16 (3) the restoration of stream flow to Fossil  
17 Creek will provide riparian habitat for native fish,  
18 birds, plants, mammals, amphibians, and reptiles;

19 (4) the Yavapai-Apache Nation considers Fossil  
20 Creek to be a sacred place, with significant spiritual  
21 and cultural values;

22 (5) the Verde River, into which Fossil Creek  
23 flows, has previously been added to the National  
24 Wild and Scenic Rivers System;

25 (6) the Northern Arizona University has in-  
26 vested significant resources in studying the restora-

1       tion of Fossil Creek and the unique geological,  
2       hydrological, and biological characteristics of Fossil  
3       Creek;

4           (7) State and Federal land and resource man-  
5       agement agencies have invested significant resources  
6       in restoring the native fish populations of Fossil  
7       Creek through barrier construction and stream ren-  
8       ovation activities;

9           (8) the Fossil Creek watershed will continue to  
10      provide opportunities for hiking, swimming, camp-  
11      ing, horseback riding, wildlife viewing, hunting, and  
12      livestock grazing;

13          (9) the Forest Service has determined that Fos-  
14      sil Creek is eligible for inclusion into the National  
15      Wild and Scenic Rivers System based on the free-  
16      flowing condition and outstandingly remarkable geol-  
17      ogy, ecology, fish, wildlife, cultural, and scenic values  
18      of the creek; and

19          (10) this reborn river deserves long-term pro-  
20      tection secured by a sustainable management plan  
21      that recognizes and maintains the remarkable values  
22      of the Fossil Creek area.

23   **SEC. 3. DESIGNATION OF WILD AND SCENIC RIVERS.**

24       Section 3(a) of the Wild and Scenic Rivers Act (16  
25   U.S.C. 1274(a)) is amended—

(1) by redesignating the last 3 paragraphs as paragraphs (167) through (169), respectively; and

(2) by adding at the end the following:

“(170) FOSSIL CREEK, ARIZONA.—

“(A) UPPER FOSSIL CREEK.—From the source at Fossil Springs below Sand Rock and Calf Pen Canyons to where the water leaves the Fossil Spring Wilderness Area, as a wild river.

“(B) MIDDLE FOSSIL CREEK.—From the border of the Fossil Spring Wilderness Area to the Mazatzal Wilderness Boundary, as a scenic river.

“(C) SEGMENT.—The 6.6 miles from the Mazatzal Wilderness Boundary down to the confluence with the Verde River, as a wild river.”.

**SEC. 4. MANAGEMENT OF RIVER SEGMENTS.**

The Secretary of Agriculture shall—

(1) manage the river segments designated in section 3; and

(2) submit a river management plan for the designated segments to Congress not later than 2 years after the date of enactment of this Act.

1 **SEC. 5. ALLOWANCE FOR RESTORATION ACTIVITIES.**

2       (a) ~~ARIZONA PUBLIC SERVICE COMPANY.~~—Without  
 3 further consultation under section 7 of the Wild and Scenic  
 4 Rivers Act (16 U.S.C. 1278), Arizona Public Service  
 5 Company, the former licensee for the Childs-Irving Hydro-  
 6 electric Project (FERC project number 2069), may con-  
 7 duct project decommissioning and restoration activities  
 8 agreed to in the surrender application and relevant docu-  
 9 mented filings with the Federal Energy Regulatory Commis-  
 10 sion.

11       (b) ~~FEDERAL AND STATE AGENCIES.~~—Any Federal  
 12 or State agency may conduct stream restoration and bar-  
 13 rier maintenance activities in accordance with the environ-  
 14 mental assessment and finding of no significant impact  
 15 for the Fossil Creek Native Fish Restoration Project dated  
 16 2004.

17 **SEC. 6. STREAM MONITORING.**

18       Notwithstanding the amendment made by section 3,  
 19 the United States Geological Survey or any permittee of  
 20 the Forest Service may undertake any necessary activities,  
 21 including access by any existing road, to install, operate,  
 22 maintain, or otherwise manage 1 or more stream flow  
 23 gauges on Fossil Creek in cooperation with the Forest  
 24 Service for the purpose of monitoring and collecting  
 25 stream flow and other water resource information.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums  
3 as are necessary for each fiscal year—

4 (1) to prepare management plans for all river  
5 segments designated as wild or scenic rivers under  
6 section 3 not later than 2 years after the date of  
7 designation, in accordance with section 3(d)(1) of  
8 the Wild and Scenic Rivers Act (16 U.S.C.  
9 1274(d)(1));

10 (2) to fund a river ranger to oversee Fossil  
11 Creek; and

12 (3) to otherwise carry out this Act.

13 **SECTION 1. SHORT TITLE.**

14 *This Act may be cited as the “Fossil Creek Wild and*  
15 *Scenic River Act”.*

16 **SEC. 2. DESIGNATION OF WILD AND SCENIC RIVER SEG-**  
17 **MENTS.**

18 *Section 3(a) of the Wild and Scenic Rivers Act (16*  
19 *U.S.C. 1274(a)) is amended—*

20 (1) *by redesignating paragraph (167) (relating*  
21 *to the Musconetcong River, New Jersey) as paragraph*  
22 *(169);*

23 (2) *by designating the undesignated paragraph*  
24 *relating to the White Salmon River, Washington, as*  
25 *paragraph (167);*

1           (3) *by designating the undesignated paragraph*  
 2           *relating to the Black Butte River, California, as*  
 3           *paragraph (168); and*

4           (4) *by adding at the end the following:*

5           “(170) *FOSSIL CREEK, ARIZONA.—Approximately 16.8 miles of Fossil Creek from the confluence*  
 6           *of Sand Rock and Calf Pen Canyons to the confluence*  
 7           *with the Verde River, to be administered by the Sec-*  
 8           *retary of Agriculture in the following classes:*

10           “(A) *The approximately 2.7-mile segment*  
 11           *from the confluence of Sand Rock and Calf Pen*  
 12           *Canyons to the point where the segment exits the*  
 13           *Fossil Spring Wilderness, as a wild river.*

14           “(B) *The approximately 7.5-mile segment*  
 15           *from where the segment exits the Fossil Creek*  
 16           *Wilderness to the boundary of the Mazatzal Wil-*  
 17           *derness, as a recreational river.*

18           “(C) *The 6.6-mile segment from the bound-*  
 19           *ary of the Mazatzal Wilderness downstream to*  
 20           *the confluence with the Verde River, as a wild*  
 21           *river.”.*

22 **SEC. 3. RESTORATION ACTIVITIES.**

23           (a) *ARIZONA PUBLIC SERVICE COMPANY.—Without*  
 24           *further consultation under section 7 of the Wild and Scenic*  
 25           *Rivers Act (16 U.S.C. 1278), Arizona Public Service Com-*

pany, the former licensee for the Childs-Irving Hydro-  
 electric Project (FERC project number 2069), may conduct  
 project decommissioning and restoration activities agreed  
 to in the surrender application and relevant docketed filings  
 with the Federal Energy Regulatory Commission.

(b) *FEDERAL AND STATE AGENCIES.*—Federal and  
 State agencies may conduct native fish restoration and bar-  
 rier maintenance activities in accordance with the Envi-  
 ronmental Assessment, Decision Notice, and Finding of No  
 Significant Impact for the document entitled “Native Fish  
 Restoration in Fossil Creek” and dated 2004.

**SEC. 4. STREAM MONITORING.**

Notwithstanding the amendment made by section 2,  
 the United States Geological Survey or any other entity  
 that has been given written permission for the activity from  
 the Secretary of Agriculture may undertake any necessary  
 activities, including access by any existing road, to install,  
 operate, maintain, or otherwise manage 1 or more stream  
 flow gauges in Fossil Creek in cooperation with the Forest  
 Service for the purpose of monitoring and collecting stream  
 flow and other water resource information.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as  
 are necessary to carry out this Act.

Amend the title so as to read: “A bill to designate  
 Fossil Creek, a tributary of the Verde River in the State



of Arizona, as a component of the National Wild and Scenic Rivers System.”.

**Calendar No. 635**

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 86**

[Report No. 110–283]

**A BILL**

To designate segments of Fossil Creek, a tributary to the Verde River in the State of Arizona, as wild and scenic rivers.

APRIL 10, 2008

Reported with an amendment and an amendment to the title